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19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 OAKLAND DIVISION

22 GIFFORDS LAW CENTER TO PREVENT
GUN VIOLENCE,

23 Plaintiff,

24 v.

25 UNITED STATES DEPARTMENT OF
JUSTICE and BUREAU OF ALCOHOL,
26 TOBACCO, FIREARMS, AND
EXPLOSIVES,

27 Defendants.

28 CASE NO. 18-cv-06171 DMR

UPDATED JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
STIPULATION AND [PROPOSED] ORDER
RESETTING CASE MANAGEMENT
CONFERENCE AND RELATED DEADLINES

1 Plaintiff, Giffords Law Center to Prevent Gun Violence, and defendants, United States Department
 2 of Justice (“DOJ”) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) (collectively
 3 “defendants”), jointly submit this Updated Joint Case Management Conference Statement pursuant to the
 4 Court’s February 13, 2020 Order (ECF No. 44).

5 Plaintiff has sued defendants for alleged violation of the Freedom of Information Act (“FOIA”), 5
 6 U.S.C. § 552. Plaintiff alleges that on July 25, 2018, plaintiff submitted two FOIA requests, one to ATF
 7 and another to DOJ. Both requests sought records from January 20, 2017 until the date the requests are
 8 processed, concerning communications between agency officials and 46 individuals, listed on Appendix A
 9 to the requests. Additional details regarding the scope of the FOIA requests are included in the parties’
 10 July 24, 2019 Joint Case Management Statement (ECF No. 35).

11 Plaintiff’s FOIA request to DOJ sought records from multiple offices within DOJ. All of those
 12 offices have now completed their responses. DOJ Civil Division sent plaintiff a final response stating that
 13 it did not locate any responsive records around November 28, 2018. On May 8, 2019, DOJ’s Office of
 14 Legal Counsel (OLC) sent plaintiff a final response, which included a production of 25 pages. DOJ’s
 15 Office of Information Policy (DOJ-OIP) is responsible for processing FOIA requests for the remaining
 16 DOJ offices from which records have been requested: the Offices of the Attorney General (OAG), Deputy
 17 Attorney General (ODAG), Associate Attorney General (OASG, referenced in plaintiff’s FOIA request
 18 as AAG), Legal Policy (OLP), Legislative Affairs (OLA), and Public Affairs (PAO). At the initial case
 19 management conference on April 17, 2019, the parties reported that they had reached an agreement
 20 regarding narrowing of plaintiff’s FOIA request as it relates to those offices over which DOJ-OIP has
 21 responsibility. Pursuant to that agreement, DOJ-OIP confined its electronic search to an agreed-upon list
 22 of custodians. DOJ-OIP issued three responses to plaintiff: one on November 8, 2019, one on December
 23 6, 2019, and its final response on January 17, 2020, which collectively included production of 143 pages.

24 At the initial case management conference, defendant reported that ATF had conducted searches
 25 for records responsive to plaintiff’s request. At that time, ATF was in the process of reviewing records
 26 returned from those searches and anticipated completing its release of documents in two productions, on
 27 May 10, 2019 and on June 10, 2019. Plaintiff received a release of 123 pages on May 10, 2019. ATF has
 28 now completed its response, including by producing an additional approximately 1,600 pages.

1 As reported in the September 13, 2019 Joint Status Report, November 25, 2019 Updated CMC
 2 Statement, and February 12, 2020 Updated CMC Statement, the parties were not in a position to determine
 3 whether *Vaughn* indices are necessary in this case and/or if the parties can agree to the preparation of
 4 narrowly tailored *Vaughn* indices, focused on certain claimed exemptions/records. ECF Nos. 39, 41, and
 5 43. Instead, the parties agreed that DOJ-OIP should be allowed to complete its response, plaintiff should
 6 be provided time to review the released records, and the parties should then be given an opportunity to
 7 meet and confer regarding (1) the need for and/or the scope of *Vaughn* indices in this case and (2) the
 8 timing of the production of any *Vaughn* indices needed in this case. *Id.*

9 Although the parties agreed at that time that *Vaughn* indices are not necessary at this stage of the
 10 litigation, defendants agreed to produce draft search summaries to allow plaintiff to analyze the adequacy
 11 of defendants' searches. *Id.* Specifically, defendants agreed to produce draft search summaries as follows:

- 12 • October 31, 2019: ATF will produce its draft search summary
- 13 • December 6, 2019: DOJ-OLC will produce its draft search summary
- 14 • January 31, 2020: DOJ-OIP will produce its draft search summary (or on December 20,
 15 2019, if DOJ-OIP's final response is provided on December 6, 2019)

16 *Id.* ATF requested, and plaintiff granted, a one-day extension on the deadline to produce its draft search
 17 summary, and ATF produced its draft search summary to plaintiff on November 1, 2019. OLC and OIP
 18 produced their draft search summaries as scheduled on December 6, 2019 and January 31, 2020,
 19 respectively.

20 The parties are currently meeting and conferring productively regarding any remaining disputes
 21 with the defendants' final FOIA responses. Because the parties continue to make progress cooperatively,
 22 the parties HEREBY STIPULATE AND REQUEST that the April 1, 2020 case management conference
 23 be continued to July 1, 2020 at 1:30 p.m., which will allow the parties to continue their meet and confer
 24 negotiations.

25 DATED: March 25, 2020

Respectfully submitted,
 DAVID L. ANDERSON
 United States Attorney

27 /s/ Jevechius D. Bernardoni
 JEVECHIUS D. BERNARDONI*
 28 Assistant United States Attorney
 Attorneys for Federal Defendants

1
2 DATED: March 25, 2020

Democracy Forward Foundation

3 /s/ Benjamin Seel

4 BENJAMIN SEEL
5 NITIN SHAH
**admitted *pro hac vice*

6 Giffords Law Center to Prevent Gun Violence
7 HANNAH SHEARER

8 Attorneys for Plaintiff

9 * *In compliance with Civil Local Rule 5-1(i), the filer of this document attests that all signatories listed*
have concurred in the filing of this document.

10 **{PROPOSED} ORDER**

11
12 Pursuant to the stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED
13 that the further case management conference for this case is reset to July 1, 2020 at 1:30 p.m., with a
14 further case management statement due by June 24, 2020.

15
16 DATED: March 26, 2020

